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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/869,325

07/24/2001

Yuta Ohki

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1391

23850

7590

08/31/2004

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EXAMINER

FORD, JOHN K

ART UNIT

PAPER NUMBER

3753

DATE MAILED: 08/31/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/069,325

Applicant(s)

Ohki

Examiner

John K. Ford

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/20/04
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-19 is/are pending in the application. (*Claims 1-3 have been cancelled*)
- 4a) Of the above claim(s) 4-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 7-19 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Applicant has canceled rejected claim 1 and included a host of new species claims 10-19. Applicant has added one new dependent claim (claim 9) to previously allowed claims 7 and 8.

In response to an election requirement set forth in Paper No. 5 (May 13, 2002) applicants in Paper No. 7 (Sept. 13, 2002) did not elect beyond two broad species that they identified, (not responding to the more detailed species set forth by the Examiner in Paper No. 5) as was their right. The response is reproduced below:

"Going first to the election of species, Applicant respectfully requests reconsideration of the election requirement as presented in the Office Action for the reason that a fair reading of the claims in the application lead to the conclusion that only principal species of the invention are claimed in the patent application. The first species involves a sample temperature regulator in which a connecting plate 15 formed of a material having a thermal conductivity lower than those of the two blocks in interposed between the heating block 3 and the cooling block 4. This species is represented by the showings in all of Figures 1 to 10 and is covered by claims 1 to 3 in the application.

A second species is represented by the embodiments illustrated in Figures 11 and 12 and involves a sample temperature regulator in which the cooling block 3 is combined directly with the heating block 4 but is formed of a material having a thermal conductivity lower than that of the heating block. This second species is covered by claims 4 to 6 in the application.

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In order to comply with the provisions of 37 C.F.R. §1.142, election is hereby made with traverse to prosecute the first species containing claims 1 to 3 and that are readable on all of Figures 1 to 10 in the application." (emphasis supplied).

At the current juncture many subgeneric features are being claimed necessitating from the Examiner's view point a more complete compliance with the previously formulated election requirement of Paper No. 5, the most pertinent portion of which is reproduced below (with the addition of ^{parenthetical} ~~parenthetical~~ remarks):

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

first species of Figures 1-3,

second species of Figure 4,

third species of Figure 5,

fourth species of Figure 6,

fifth species of Figure 7-9,

sixth species of Figure 10,

seventh species of Figures 11-13 (currently non-elected) and

an in-determinant number of additional species (unillustrated) described in the specification in which certain features of ^fat least one of the aforementioned seven species is combined with features of another of the aforementioned seven species (as

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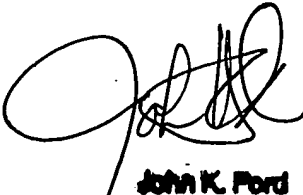
disclosed in the specification of page 13, lines 2-4, page 16, lines 7-9, page 16, lines 19-25 and page 16, line 27-, page 17, line 3).

Applicant is required, in reply to this application, to elect a single species (among the first six or some modification of the first six) to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered ^{non} ~~non-~~ responsive unless accompanied by an election. If one of these is determinant number of additional species is elected a proposed drawing correction showing it in totality is required in response to this action.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of all allowed generic claims as provided by 37 C.F.R. 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication should be directed to John Ford at telephone number ⁷⁰³ 308-2636.



John K. Ford
Primary Examiner